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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 MICHAEL NOVICK,

8 Plaintiff(s),

9 v.

10 CITIMORTGAGE, INC.,

11 Defendant(s).

Case No. 2:17-CV-2977 JCM (NJK)

ORDER

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13 Presently before the court is the matter of *Novick v. CitiMortgage, Inc.*, case number 2:17-cv-
14 02977-JCM-NJK.

15 **I. Background**

16 On August 1, 2017, plaintiff Michael Novick filed a motion for temporary restraining order
17 in state court. (ECF No. 1-1 at 2). The motion requested the court to halt defendant's proposed
18 sale of the property, which was scheduled for August 2, 2017 (the next day). *Id.* The state court
19 granted plaintiff's motion, and set a hearing for August 23, 2017. *See id.* at 109.

20 On August 22, 2017 at 5:32pm, defendant CitiMortgage, Inc. removed this action to federal
21 court from the Eighth Judicial District Court of Clark County. (Case no. 2:17-cv-02236-JCM-
22 CWH, ECF No. 1). On September 12, 2017, this court remanded the action, as plaintiff was yet
23 to file a complaint. (Case no. 2:17-cv-02236-JCM-CWH, ECF No. 12). On remand, plaintiff filed
24 a complaint, (ECF No. 1-1 at 8–15), and defendant proceeded to remove the case to federal court,
25 (ECF No. 1).

26 **II. Discussion**

27 “An injunction is a matter of equitable discretion . . . an extraordinary remedy that may
28 only be awarded upon a clear showing that the plaintiff is entitled to such relief. *Winter v.*

1 *N.R.D.C.*, 555 U.S. 7, 20, 129 S. Ct. 365, 374 (2008). Courts must consider the following elements
2 in determining whether to issue a temporary restraining order and preliminary injunction: (1) a
3 likelihood of success on the merits; (2) likelihood of irreparable injury if preliminary relief is not
4 granted; (3) balance of hardships; and (4) advancement of the public interest. *Id.* at 20. The test
5 is conjunctive, meaning the party seeking the injunction must satisfy each element.

6 A court may issue a temporary restraining order when the moving party provides specific
7 facts showing that immediate and irreparable injury, loss, or damage will result before the adverse
8 party's opposition to a motion for preliminary injunction can be heard. Fed. R. Civ. P. 65(b). "The
9 purpose of a temporary restraining order is to preserve the status quo before a preliminary
10 injunction hearing may be held; its provisional remedial nature is designed merely to prevent
11 irreparable loss of rights prior to judgment." *Estes v. Gaston*, no. 2:12-cv-1853-JCM-VCF, 2012
12 WL 5839490, at *2 (D. Nev. Nov. 16, 2012) (citing *Sierra On-Line, Inc. v. Phoenix Software, Inc.*,
13 739 F.2d 1415, 1422 (9th Cir. 1984)). "Thus, in seeking a temporary restraining order, the movant
14 must demonstrate that the denial of relief will expose him to some significant risk of irreparable
15 injury." *Id.* (quoting *Associated Gen. Contractors of Cal. v. Coalition of Econ. Equity*, 950 F.2d
16 1401, 1410 (9th Cir. 1991)).

17 Here, plaintiff has not demonstrated that injunctive relief is warranted on these facts. All
18 of plaintiff's filed motions for injunctive relief reference defendant's proposed sale of the property
19 that was supposed to occur on August 2, 2017. *See* (ECF No. 1-1 at 2, 78) (plaintiff's motion and
20 amended motions filed in state court). None of plaintiff's documents filed in state court reference
21 immediate and irreparable harm that will occur in the future if the court does not grant plaintiff's
22 motion. Further, plaintiff's motions do not demonstrate why injunctive relief should be granted
23 before the opposing party may be heard on the issue.

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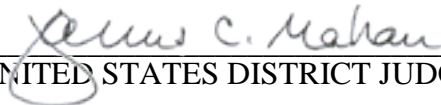
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The court will deny plaintiff's motion for temporary restraining order without prejudice.
Accordingly,
IT IS SO ORDERED.
DATED December 5, 2017.


UNITED STATES DISTRICT JUDGE